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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,333	11/26/2003	Damien Galand	Q78594	8615
23373	7590	08/08/2007		
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER KANG, SUK JIN	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 08/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/721,333

Applicant(s)

GALAND ET AL.

Examiner

Suk Jin Kang

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/26/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of a certified copy of the French Patent Application # 0215126 referred to in the oath or declaration or in an application data sheet. If applicant desires to claim the benefit of an application under 35 U.S.C. 119 (a)-(d), a specific reference to the application must be included in the first sentence(s) of the specification following the title or in an application data sheet.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Information Disclosure Statement

2. The information disclosure statement submitted on November 26, 2003 has been considered by the Examiner and made of record in the application.

Specification

3. The abstract of the disclosure is objected to because the phrase "means for" on lines 4 and 11 should be avoided and "Figure for publication: 1" on line 18 of the abstract should be deleted. Correction is required. See MPEP § 608.01(b). Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

4. The disclosure is objected to because of the following informalities:

a) Section headings should be inserted in applicant's specification. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. These headings are suggested for the applicant's use.

- (i) TITLE OF THE INVENTION.
- (ii) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (iii) BACKGROUND OF THE INVENTION.
- (iv) BRIEF SUMMARY OF THE INVENTION.
- (v) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (vi) DETAILED DESCRIPTION OF THE INVENTION.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claim 7** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the end user" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 1-3, 5-7, and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shaffer et al.** (U.S. Patent # 5,995,490) in view of **Raz et al.** (U.S. Patent # 6,529,515 B1).

Consider **claim 1**, Shaffer et al. discloses a device for accessing a telecommunication network (22, PSTN, figure 1) comprising means for transmitting data flows between at least one first telecommunication client (10, multimedia-capable system, figure 1) connected to the said telecommunication network (22, PSTN, figure 1) by means of an access network (12, PBX, figure 1) possessing throughput performances lower than the said telecommunication network and at least one second telecommunication client (16, multimedia-capable system, figure 1) accessible through the said telecommunication network, the said information flows being organised in sessions (column 4 lines 38-41, column 5 lines 4-15), each data flow of one and the same session providing communication between the same telecommunication clients; and degradation means for degrading (column 4 lines 34-37 and 55-57) at least one quality parameter of at least one of the said data flows in order to compensate for the

difference in throughputs between the said telecommunication network and the said access network (column 5 lines 41-47 and 62-67, column 6 lines 1-10)

However, Shaffer et al. may not expressly disclose the said degradation means make use of a module associated with each session, for carrying out the said degradation, the said module being determined by the said first client.

In the same field of endeavor, Raz et al. discloses the said degradation means make use of a module (active packets) associated with each session, for carrying out the said degradation, the said module being determined by the said first client (column 4 lines 51-67, column 5 lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a module associated with each session as taught by Raz et al. with the device as disclosed by Shaffer et al. for the purpose of effectively degrading data flow sessions.

Consider **claim 2**, and as applied to claim 1, Shaffer et al., as modified by Raz et al., discloses the claimed invention, furthermore, Raz et al. also discloses an access device in which the said module principally consists of executable code allowing the degradation of the said at least one quality parameter (column 4 lines 57-60, column 5 lines 1-23).

Consider **claim 3**, and as applied to claim 2, Shaffer et al., as modified by Raz et al., discloses the claimed invention, furthermore, Raz et al. also discloses an access device in which the said module is transmitted in the payload of an active packet

transmitted by the said first client (column 4 lines 14-18 and 57-60, column 5 lines 1-23).

Consider **claim 5**, and as applied to claim 1, Shaffer et al., as modified by Raz et al., discloses an access device in which the said module principally consists of a set of tables giving the correspondence, for each data flow of the said session, between the quality parameters and the impacts of a degradation of these quality parameters on the quality of the said data flow (column 5 lines 1-15).

Consider **claim 6**, and as applied to claim 1, Shaffer et al., as modified by Raz et al., discloses the claimed invention, furthermore, Raz et al. also discloses an access device in which the said module principally consists of a set of mathematical expressions (algorithm) linking, for each data flow of the said session, the quality parameters and the impacts of a degradation of these quality parameters on the quality of the said data flow (column 9 lines 26-37, Table 1, column 12 lines 29-45).

Consider **claim 7**, and as applied to claim 1, Shaffer et al., as modified by Raz et al., discloses an access device in which the said first client determines the said module in cooperation with the end user, in particular by means of configuration parameters (column 4 lines 55-66).

Consider **claim 9**, and as applied to claim 8, Shaffer et al., as modified by Raz et al., discloses the claimed invention, furthermore, Raz et al. also discloses an access device in which the communications with the policy server conform to the CORBA protocol (column 2 lines 1-5, column 5 lines 39-46).

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9. **Claims 4 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shaffer et al.** (U.S. Patent # 5,995,490) in view of **Raz et al.** (U.S. Patent # 6,529,515 B1), and further in view of **Gai et al.** (U.S. Patent # 6,434,624 B1).

Consider **claim 4**, and as applied to claim 2, Shaffer et al., as modified by Raz et al., discloses the claimed invention, but may not expressly disclose an access device in which the said module is downloaded from a code server and identified by an identifier contained in an active packet transmitted by the said first client.

However, in the same field of endeavor, Gai et al. discloses an access device in which the said module is downloaded from a code server (222, host/server, figure 2, column 6 lines 11-27) and identified by an identifier contained in an active packet transmitted by the said first client (column 7 lines 39-52).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a code server as taught by Gai et al. with the access device as disclosed by Shaffer et al., as modified by Raz et al., for the purpose of effectively degrading data flow sessions.

Consider **claim 8**, and as applied to claim 1, Shaffer et al., as modified by Raz et al., discloses the claimed invention, but may not expressly disclose an access device in which the said module consists of a set of policy rules supplied by a policy server.

However, in the same field of endeavor, Gai et al. discloses an access device in which the said module consists of a set of policy rules supplied by a policy server (216, policy server, figure 2, column 6 lines 4-10).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a policy server as taught by Gai et al. with the access device as disclosed by Shaffer et al., as modified by Raz et al., for the purpose of effectively degrading data flow sessions.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.
11. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Suk Jin Kang whose telephone number is (571) 270-1771. The examiner can normally be reached on Monday - Friday 8:00-5:00 EST.


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Suk Jin Kang
S.J.K./sjk

July 26, 2007


CHAU NGUYEN
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